

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE

TOPS HOLDING II CORPORATION, *et al.*,

Debtors.

ALAN D. HALPERIN, AS THE LITIGATION TRUSTEE
FOR THE TOPS HOLDING LITIGATION TRUST,

Plaintiff,

v.

MORGAN STANLEY INVESTMENT MANAGEMENT
INC.; MORGAN STANLEY CAPITAL PARTNERS V U.S.
HOLDCO LLC a/k/a NORTH HAVEN CAPITAL PARTNERS
V U.S. HOLDCO LLC; HSBC EQUITY PARTNERS USA,
L.P.; HSBC PRIVATE EQUITY PARTNERS II USA LP;
TURBIC INC; GARY MATTHEWS; ERIC KANTER; ERIC
FRY; GREG JOSEFOWICZ; AND STACEY RAUCH,

Defendants.

Chapter 11

Case No. 18-22279 (SHL)

(Jointly Administered)

Adversary Proceeding

Case No. 20-08950 (DSJ)

STIPULATION AND SCHEDULING ORDER

WHEREAS Defendants Morgan Stanley Investment Management, Inc., Morgan Stanley Capital Partners V U.S. Holdco LLC, HSBC Equity Partners USA, LP, HSBC Private Equity Partners II USA LP, Turbic Inc., Gary Matthews, Eric Kanter, Eric Fry, Greg Josefowicz, and Stacey Rauch (collectively “Defendants”), and Plaintiff Alan D. Halperin, as the Litigation Trustee for the Tops Holding Litigation Trust (“Plaintiff,” together with Defendants, the

“Parties”) proposed alternative schedules for the parties’ summary judgment and related expert exclusion pre-motion conference letter submissions (“Pre-Motion Letters”), ECF Nos. 191, 193;

WHEREAS, on July 31, 2024, the Court ordered a conference for August 6, 2024 to discuss the proposed alternative schedules, ECF No. 192;

WHEREAS, at the August 6, 2024 conference, the Court ordered the schedule set forth below for the submissions and ordered the Parties to meet and confer on the date for the pre-motion conference;

IT IS HEREBY STIPULATED and AGREED, that:

1. Opening Pre-Motion Letters, if any, shall be filed on August 27, 2024.
2. Responsive Pre-Motion Letters, if any, shall be filed on September 13, 2024.
3. A pre-motion conference is set for September 24, 2024 at 2 pm at One Bowling Green, Courtroom 701, New York, NY 10004-1408.
4. A joint letter by the Parties addressing whether (i) Defendants contest Plaintiff’s right to a jury trial and (ii) if Plaintiff has a right to a jury trial, whether the Parties consent to a jury trial in the Bankruptcy Court shall be filed on September 20, 2024.
5. The final pretrial conference date in paragraph No. 3 of the December 15, 2023 Amended Scheduling and Pretrial Order, ECF No. 174, is adjourned.

IT IS SO STIPULATED.

Dated: August 15, 2024
New York, New York

By: /s/ Kyle A. Lonergan

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IT IS SO ORDERED:

Dated: New York, New York
August 19, 2024

s/ David S. Jones

Honorable David S. Jones

United States Bankruptcy Judge